

## REMARKS

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3 1. The Office Action of March 30, 2005 is hereby acknowledged. This  
4 Amendment Under 37 C.F.R. § 1.111 is being mailed by Express Mail, Mail Label  
5 No. EV 593947345 US, addressed to Commissioner for Patents, P.O. Box 1450,  
6 Alexandria, Virginia 22313-1450 on May 27, 2005. The shortened statutory  
7 period of three (3) months time period for response to this Office Action expires on  
8 June 30, 2005. Therefore, this amendment this Amendment is timely filed. In the  
9 event that the Commissioner for Patents should determine that any extension of  
10 time is required for this Amendment to be timely filed and an appropriate fee is due  
11 for that extension of time, then the Commissioner for Patents is hereby authorized  
12 to charge Deposit Account Number 18-2222 for such appropriate fee.

13  
14 2. The original '104 Application had a total of 9 claims wherein 3 were  
15 independent claims. After the restriction requirement by the Examiner, only 3  
16 claims of invention remain in the case of which there is only one independent  
17 claim. Therefore, the '104 Application now has a total of 3 total claims wherein  
18 one is an independent claims. Therefore, no additional fee is due. In the event that  
19 the Commissioner for Patents should determine that any additional fee is due, then  
20 the Commissioner for Patents is hereby authorized to charge Deposit Account  
21 Number 18-2222 for the appropriate fee.

22  
23 4. The Patent Examiner's detailed analysis of the '104 Application is  
24 acknowledged with appreciation. The Examiner's comments concerning the  
25 drawings have been noted. With respect to the character reference 16 for the picket  
26 fence, the character reference 16 for the picket fence with points has been left in  
27 Figures 1 and 2 and the character reference for the picket fence that has no pointed  
28 ends has been changed to 16(a). Proposed drawing corrections to Figures 3 and

1 6(b) and 6(c) are presented for the Examiner's approval and once the Examiner  
2 approves it, formal corrected drawings will be submitted. The text has also been  
3 modified to show that the pickets 16 have pointed ends. This appears on Page 10,  
4 line 23. Also, beginning on Page 11, line 2, the additional sentence in the text has  
5 been added that "In addition, pickets without pointed ends, numbered 16(a) as  
6 illustrated in Figures 3, 6(b) and 6(c), are also within the spirit and scope of the  
7 present invention.

8 The Examiner's statement concerning the character reference 10 to designate  
9 a fence with one configuration (in Figure 1) and a second configuration in Figures  
10 6(c) and a third configuration Figure 6(g) have been noted. The character  
11 reference 10 has been left unchanged for Figure 1. For Figure 6(e), the character  
12 reference has been changed to 10(a). Through this amendment, this is discussed in  
13 the text on Lines 7 and 8 on Page 11. With respect to Figure 6(g), the character  
14 reference has now been changed to 10(b) and this has been discussed in newly  
15 added paragraphs beginning on Line 27 on Page 16. Again, proposed drawing  
16 corrections for Figures 6(e) and 6(g) are also submitted herewith and once the  
17 Examiner approves these proposed drawing changes, formal drawings will be  
18 submitted. The changes only involve simple additional letters added to the various  
19 character designations. All of the remaining figures in each of the sheets of  
20 drawings have remained unchanged.

21 In accordance with the Examiner's directive, the words "replacement sheet"  
22 have been typed into the page header for the two sheets of drawings which are  
23 resubmitted. For the sake of completeness, the Applicant is submitting the entire  
24 10 sheets which have 12 figures on them but only Sheet 3 which has Figure 3  
25 thereon and has the post without points designated as 16(a) and Sheet 5 which has  
26 Figures 6(a), 6(b), 6(c) which has the post of 6(b) designated as 16(a) and the post  
27 of 6(e) designated as 16(a) and Sheet 6 which has Figures 6(e), 6(f) and 6(c)  
28 which has the variations on the fence is numbered 10(a) in Figure 6(e) and 10(b) in

1 Figure 6(g) have the words "Replacement Sheet" typed as a header.

2 Therefore, all of the Examiner's directives concerning the drawing  
3 corrections have been made.

4  
5 5. Concerning the Examiner's comments concerning the proper format for  
6 the Abstract, the Applicant has amended the Abstract as set forth above to remove  
7 the excess number of words so that the Abstract falls within the limitation of 150  
8 words. Therefore, this directive has been complied with.

9  
10 6. Concerning the claim objections, the Examiner's comments concerning  
11 the objections to Claim 1 have been noted and all of the modifications required by  
12 the Examiner have been made. Specifically, in what was formerly Line 7,  
13 "corresponding" has been changed to "the", in formerly Line 10, "by" has been  
14 changed to "to", in formerly Line 12, "corresponding" has been eliminated", in  
15 former Line 16, "a respective" has been deleted and in former Line 28, the word  
16 "as" has been deleted. Therefore, the directives concerning the claim objections  
17 have been complied with.

18  
19 7. The Applicant has very carefully studied the Examiner's rejections under  
20 35 U.S.C. § 103. The primary reference that the Examiner has cited is Larsen.  
21 Larsen discloses a modular picket fence which comprises at least two spaced apart  
22 vertical posts and at least two spaced apart horizontal tubular rails. However, the  
23 spring clip attaching mechanism of Larsen is very substantially different from the  
24 much improved spring clip attaching mechanism of the present invention. In  
25 addition to that, the rails of Larsen have an open channel at the bottom, whereas  
26 the rails of the present invention are closed on both the top and the bottom with  
27 only the apertures extending therethrough to receive the picket fence. Therefore,  
28 these differences have been added into the claims. Specifically, with respect to

1 Claim 1, Claim element (b) now more clearly defines the rails including having an  
2 enclosed upper surface with a plurality of spaced apart apertures and an enclosed  
3 lower surface with a plurality of spaced apart apertures, a respective aperture in an  
4 upper surface aligned with a respective aperture in a lower surface.

5 With respect to Claim element (d), with respect to the transverse apertures,  
6 an additional feature saying that each aperture having a locking tongue extending  
7 into the aperture has been added at the end.

8 With respect to the spring clip mechanism, the feature that each ramp side  
9 has an opening which receives the corresponding locking tongue has been added  
10 and also the feature that the spring clip is secured to the vertical picket by means of  
11 a locking tongue received within the opening in the ramp side and each ramp side  
12 protrudes through the oppositely disposed openings has been added.

13 The detailed features of the locking mechanism have been added in great  
14 detail in final Claim element (f) wherein additional wording stating that for the  
15 upper horizontal rail, the locking tongue engages the opening in the ramp side of  
16 the stopper so that the ramp side of the stopper rests upon the interior of the lower  
17 surface and the right angle side is compressed against the interior wall of the  
18 vertical picket and for the lower horizontal rail, the locking tongue engages the  
19 opening in the ramp side of the stopper so that the ramp side of the stopper rests  
20 underneath the interior of the upper surface and the right angle side is compressed  
21 against the interior wall of the vertical picket. There is full support for these  
22 additions in the patent text wherein the original text support is on Page 15, Lines  
23 24 through 27, and Page 16, Lines 1 through 25, and also as fully shown and  
24 illustrated in Figures 8, 9(a), 9(b) and 10(a).

25 An examination of the Larsen reference shows that the spring clip  
26 mechanism of Larsen is totally different. The spring clip mechanism of the present  
27 invention is a much stronger, more secure spring clip because the tongue from the  
28 picket received within the opening in the ramp side of the stopper provides for a

1 much more secure attachment which then causes the stopper to rest within the rail  
2 and protrude out the picket which has the right angle side compressed against the  
3 interior wall of the picket. This is a much stronger support than the weaker support  
4 of the Larsen reference wherein as shown in Figure 4, the spring clip only has two  
5 oppositely disposed pins 51 which are inserted in slots 34 within the rail, as  
6 illustrated in Figure 6(b). This is a much weaker, less strong support as the picket  
7 can more easily come loose from the horizontal rail. The spring clip mechanism of  
8 the present invention is a much stronger, more secure mechanism for retaining the  
9 picket within the rail and is certainly totally different from the nature of the spring  
10 clip mechanism illustrated in Larsen.

11 With respect to the spring clip mechanism discussed in Lucas, the Lucas  
12 spring clip mechanism simply has horizontal portions 11 which the Examiner  
13 refers to as ramps and once again, there is no method by which there is an opening  
14 in the ramp to receive a tooth from a picket (the Lucas Patent deals with a bedstead  
15 and not a fence) to more securely retain the spring clip within the picket and retain  
16 the picket within the rail as discussed and claimed in now amended Claim 1 of the  
17 present invention. Therefore, the ramp feature of Lucas is totally different.

18 Therefore, it is now respectfully submitted that the claim as now amended is  
19 clearly patentable over the disclosure in the Larsen Patent or the Larsen Patent  
20 combined with the Lucas Patent. Independent Claim 2 simply adds an additional  
21 limitation to Claim 1 and therefore, the arguments concerning Helterbrand are no  
22 longer relevant because Claim 1 is now patentable over the Larsen or a  
23 combination of Larsen and Helterbrand or a combination of Larsen, Helterbrand  
24 and Lucas. Helterbrand was only cited for the purpose of showing the attaching  
25 mechanism from the rail to the post. As immediately set forth above, the Lucas  
26 Patent is totally different in the nature of the way its transverse portion which the  
27 Examiner refers to as a ramp side 11 functions and operates. With respect to the  
28 sealing cap in Figure 2, the Gibbs Patent talking about the sealing cap simply adds

1 only another limitation but it is not the key limitation as discussed above which  
2 differentiates the present invention from the cited prior art references.

3 Therefore, it is respectfully submitted that amended Claim 1 as now  
4 significantly amended is now patentable over all of the cited references and any  
5 combination whatsoever and Dependent Claims 2 and 3 which depend from now  
6 allowable Independent Claim 1 are also allowable. Therefore, a notice of allowance  
7 is respectfully submitted.

8 Respectfully submitted,

9  
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21 Postal Service as Express Mail in an envelope  
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